RECENT IMPORTANT DECISIONS.

ADVERSE POSSESSION AS AGAINST CITY.—Complainant has occupied adversely a portion of the side-walk on the corner of two public streets, such occupancy having been continuous since March 27, 1890, and now asks an injunction restraining the municipal authorities from forcibly removing him and his fruit stand from the premises; *held,* that the decree of the lower court dismissing the bill of complaint on demurrer should be affirmed. *Pastorino* v. *City of Detroit et al.* (Mich. 1914) 148 N. W. 231.

There is an irreconcilable conflict in American cases as to whether the right of the public to use land dedicated for a street or highway may be extinguished by non-user or adverse possession, due to laches, negligence, or non-action of municipal authorities. The weight of the adjudged cases seems to be that the Statute of Limitations will not run against the municipality. States holding to the contrary were Arkansas, Connecticut, Kentucky, Minnesota, Missouri, Nebraska, Vermont, Texas, Oregon and Michigan. Prior to the passage of Act No. 46 PUBLIC ACTS OF MICHIGAN, 1907, title by adverse possession could be established in lands owned by the municipal corporation the same as though owned by private individuals. *Flynn* v. *Detroit,* 93 Mich. 590; *Leanard* v. *Detroit,* 108 Mich. 599; *Schneider* v. *Detroit,* 135 Mich. 570; *Vier* v. *Detroit,* 111 Mich. 646; *Big Rapids* v. *Comstock,* 65 Mich. 78. By that act, however, it was provided that "Hereafter no rights as against the public shall be acquired by any person by reason of the occupation or use of any public street etc." States enacting similar laws more or less recent are Missouri, 1865; Minnesota, 1899; Nebraska, 1899; Oregon, 1895; Texas, 1887. The statement in *LaBarre* v. *Bent,* 154 Mich. 520, 118 N. W. 6 "that it is clearly the law that under some circumstances a private person may acquire title to a highway by adverse possession" would appear to be dicta and opposed to the terms of the statute.

BANKRUPTCY—PREFERENCE THROUGH LEGAL PROCEEDINGS—"FINAL DISPOSITION."—A petition filed against one of the respondents charged that within four months next preceding its filing said respondent committed an act of bankruptcy, in that while insolvent she allowed a judgment to be recovered against her and an execution issued thereon and levied, thereby giving a preference to such judgment creditor; and further, that at the time of filing the petition, which was one day less than four months after the levy of execution, she had not vacated or discharged the levy and resulting preference,—*Held,* that such failure to vacate or discharge the levy is not a "final disposition" of the property affected by the levy, within the meaning of § 3a (3) of the Bankruptcy Act of 1898, providing against preferences by legal proceedings; and further, that there is nothing in the above named clause which suggests that the time when the lien is obtained has any bearing upon when the property must be freed from it to avoid an act of

bankruptcy. *Citizens Banking Co.* v. *Ravenna Nat. Bank et al.* (1914) 34 Sup. Ct. 806.

The contention of counsel that the act of bankruptcy was committed by failure of respondent to extinguish the lien five days before the expiration of the four months was undoubtedly predicated upon the decisions *In Re Tupper,* 163 Fed. 766; *Folger* v. *Putnam,* 194 Fed. 793, but the Supreme Court repudiates such doctrine unmistakably and in so doing accords with *Seaboard Steel Casting Co.* v. *Trigg,* 124 Fed. 75; *In Re Vastbinder,* 126 Fed. 417; *In Re Vetterman,* 135 Fed. 443; *In Re Truitt,* 203 Fed. 550. The question is a hard one: on the one hand, the Supreme Court's decision makes it possible for an insolvent debtor to prefer one of his creditors by allowing the entry of a judgment and letting it sleep for four months—the judgment lien then becomes immune from attack by the other creditors; on the other hand, the contention that four months' inaction amounts to a "final disposition" of the property subject to the judgment lien is far-fetched and, as pointed out in the principal case, has no basis in the statute, however salutary its effect may be. In the words of the opinion, "a final disposition" used in connection with the statute unquestionably means "an affirmative act of disposal, not a mere lapse of time which leaves the lien intact and still requiring enforcement." Succinctly put, it is an act "having substantially the effect of a sale,—the transfer of ownership and control from one to another."

BANKRUPTCY—STOCKBROKERS—RATABLE DISTRIBUTION OF STOCK.—Bankrupts, who were stock-brokers, having incurred liability to their customers for 280 shares of stock, failed with but 100 shares of such stock in their possession. *Held,* that each customer was entitled, as against the general creditors, to such proportion of the stock in the possession of the brokers at the time of the bankruptcy as the shares which the brokers should have held to his account bore to the total amount of shares which should have been in their possession. *In Re H. B. Hollins & Co.,* (1914) 212 Fed. 317.

The decision in the principal case is in accord with the previously announced doctrine that where a stock-broker has in his possession at the time of his bankruptcy, certificates of stock, placed in his hands by a customer but not yet sold, or stock bought for a customer but not yet delivered to him, he holds the same as an agent or bailee; and the stock may be reclaimed from his trustee in bankruptcy. *In re James Corothers & Co.,* 182 Fed. 501. And it is immaterial that the certificates found in bankrupt's possession are not identical with those bailed or appropriated to the customer as his property by the purchasing broker, since certificates of stock are but indicia of the property in the shares and not the stock itself; and as one share of stock is not different in kind or quantity from every other share, of the same issue and company, the owners of such in the bankrupt's possession,—as in the case of grain in elevators, which has been indiscriminately mixed and has lost its separate identification thereby—are tenants in common of the sum total or mass. *Richardson* v. *Shaw,* 209 U. S. 365. In *Gorman* v. *Littlefield,* 229 U. S. 19, recovery of 250 shares out of 350